

REMARKS

This Amendment is being filed in response to the Final Office Action mailed April 1, 2008, which has been reviewed and carefully considered. Reconsideration and allowance of the present application in view of the amendments made above and the remarks to follow are respectfully requested.

In the Final Office Action, the Examiner objected to the specification for lacking headings. Applicant respectfully declines to add the headings as they are not required in accordance with MPEP §608.01(a), and could be inappropriately used in interpreting the specification.

Section headings are not statutorily required for filing a non-provisional patent application under 35 USC 111(a), but per 37 CFR 1.77 are only guidelines that are suggested for applicant's use. (See Miscellaneous Changes in Patent Practice, Response to comments 17 and 18 (Official Gazette, August 13, 1996) [Docket No: 950620162-6014-02] RIN 0651-AA75 ("Section 1.77 is permissive rather than mandatory. ... [T]he Office will not require any application to comply with the format set forth in 1.77").

It is respectfully submitted that "should" as recited in MPEP

§608.01(a) is suggestive or permissive, and not mandatory as in "must" or "shall". For example, 37 CFR 1.77(b) recites:

The specification should include the following sections in order: (Emphasis added)

Similarly, 37 CFR 1.77(c) recites:

The text of the specification sections defined in paragraphs (b)(1) through (b)(12) of this section, if applicable, should be preceded by a section heading in uppercase and without underlining or bold type. (Emphasis added)

By contrast, 37 CFR 1.77(b)(5) recites:

(5) Reference to a "Sequence Listing," a table, or a computer program listing appendix submitted on a compact disc and an incorporation-by-reference of the material on the compact disc (see § 1.52(e)(5)). The total number of compact discs including duplicates and the files on each compact disc shall be specified. (Emphasis added)

Thus, it is respectfully submitted that a distinction is made between "should" and "shall", where "should" is permissive, and "shall" is mandatory. Accordingly, it is respectfully submitted that headings are not required in accordance with MPEP §608.01(a), and withdrawal of the objection to the specification is respectfully requested

In the Final Office Action, the Examiner objected to claim 19

for a certain informality. In response, claim 19 has been amended to remove the informality noted by the Examiner. Accordingly, withdrawal of the objection to claim 19 is respectfully requested.

In the Final Office Action, claims 17-18 are rejected under 35 U.S.C. §112, second paragraph as allegedly indefinite. In response, claims 17-18 have been amended to remove the alleged informality noted by the Examiner. It is respectfully submitted that the rejection of claims 17-18 has been overcome and an indication as such is respectfully requested.

In the Final Office Action, claims 1, 6-7 and 12-14 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application Publication No. 2002/0059215 (Kotani). Further, claim 19-20 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 7,321,923 (Rosenberg). Claims 2-4 and 9-10 are rejected under 35 U.S.C. §103(a) as being patentable over Kotani in view of U.S. Patent No. 6,247,165 (Anderson). Claims 5 and 11 are rejected under 35 U.S.C. §103(a) as being patentable over Kotani in view of Anderson and U.S. Patent No. 6,829,338 (Gawande). Claim 8 is rejected under 35 U.S.C. §103(a) as being patentable over Kotani in view of U.S. Patent Application

Publication No. 2002/0003840 (Ueda). Claims 15-18 are rejected under 35 U.S.C. §103(a) as being patentable over Kotani in view of Rosenberg. It is respectfully submitted that claims 1-20 are patentable over Kotani, Rosenberg, Anderson, Gawande and Ueda for at least the following reasons.

Kotani is directed to a data search apparatus for searching search object data. As shown in step 806 of FIG 8, if a metadata matches the search condition, then the associated still image is added to the result list; otherwise, the next still image is processed.

It is respectfully submitted that Kotani does not teach or suggest the present invention as recited in independent claim 1, and similarly recited in independent claims 7 and 19 which, amongst other patentable elements, recites (illustrative emphasis provided):

storing an arrived content as stored content
while an associated metadata associated with the
arrived content is still being analyzed, or while
awaiting arrival of the associated metadata, and
discarding the stored content if the associated
metadata indicates that the useful information of the
stored content does not satisfy the predefined
criteria.


These features are nowhere disclosed or suggested in Kotani. Rosenberg, Anderson, Gawande and Ueda are cited to allegedly show other features and do not remedy the deficiencies in Kotani.

Accordingly, it is respectfully submitted that independent claims 1, 7 and 19 are allowable, and allowance thereof is respectfully requested. In addition, it is respectfully submitted that claims 2-6, 8-18 and 20 should also be allowed at least based on their dependence from independent claims 1, 7 and 19, as well as their individually patentable elements.

In addition, Applicant denies any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicant reserves the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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